



Case # BZA-05-24-00779

Charleston County BZA Meeting of July 1, 2024

Applicant/Property Owner: Leticia De La Cruz Gonzalez
Property Location: 2818 Waldman Drive – North Area
TMS#: 486-05-00-106
Zoning District: University Boulevard Overlay (Residential Area) Zoning District

Request:

Variance request for existing structures to encroach more than twenty-five percent (25%) of the protected root zone area and to encroach within a restricted area three times the DBH (Critical Root Zone) of three (3) Grand Willow Oak Trees.

Requirement:

The Charleston County Zoning and Land Development Regulations Ordinance (ZLDR), Chapter 9 Development Standards, Article 9.2 Tree Protection and Preservation, Sec. 9.2.4.C. Required Tree Protection states, "In no case shall any paving, filling, grading, Building, or construction footing occur or be placed within three times the DBH in inches from the trunk of the Tree, unless otherwise approved by the Board of Zoning Appeals."

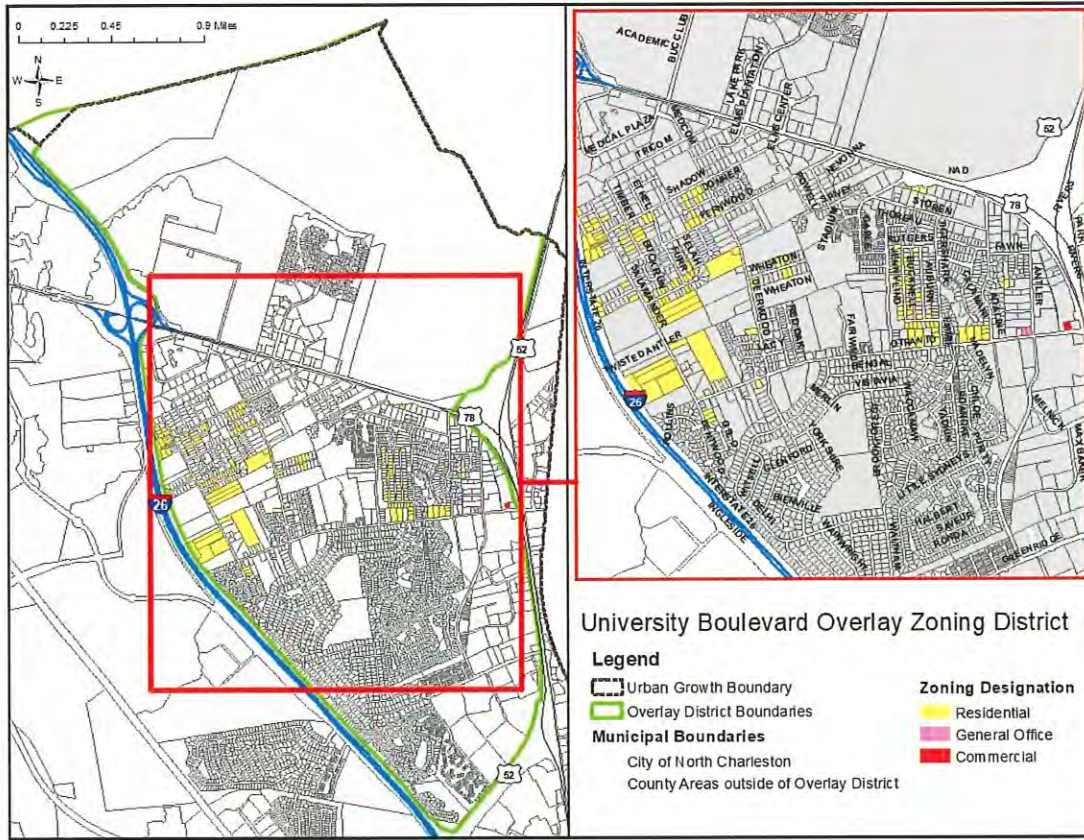
Sec. 9.2.4.E. Required Tree Protection states, "Limited encroachments into the area located within Tree barricades may be allowed by the Zoning and Planning Director provided that encroachments do not constitute more than 25 percent of the protected area beneath a Tree and do not occur in the area located within three times the DBH in inches from the trunk of the Tree unless otherwise approved by the BZA. Any paving, Grading, trenching, or filling of the protected area must be pre-approved by the Zoning and Planning Director or the Board of Zoning Appeals, as required by this Ordinance, and may require specific construction techniques to preserve the health of the Tree. When grading and construction within the protected area of a Tree has been approved, all damaged roots shall be severed clean."

Sec. 9.2.4 Required Tree Protection

A. General.

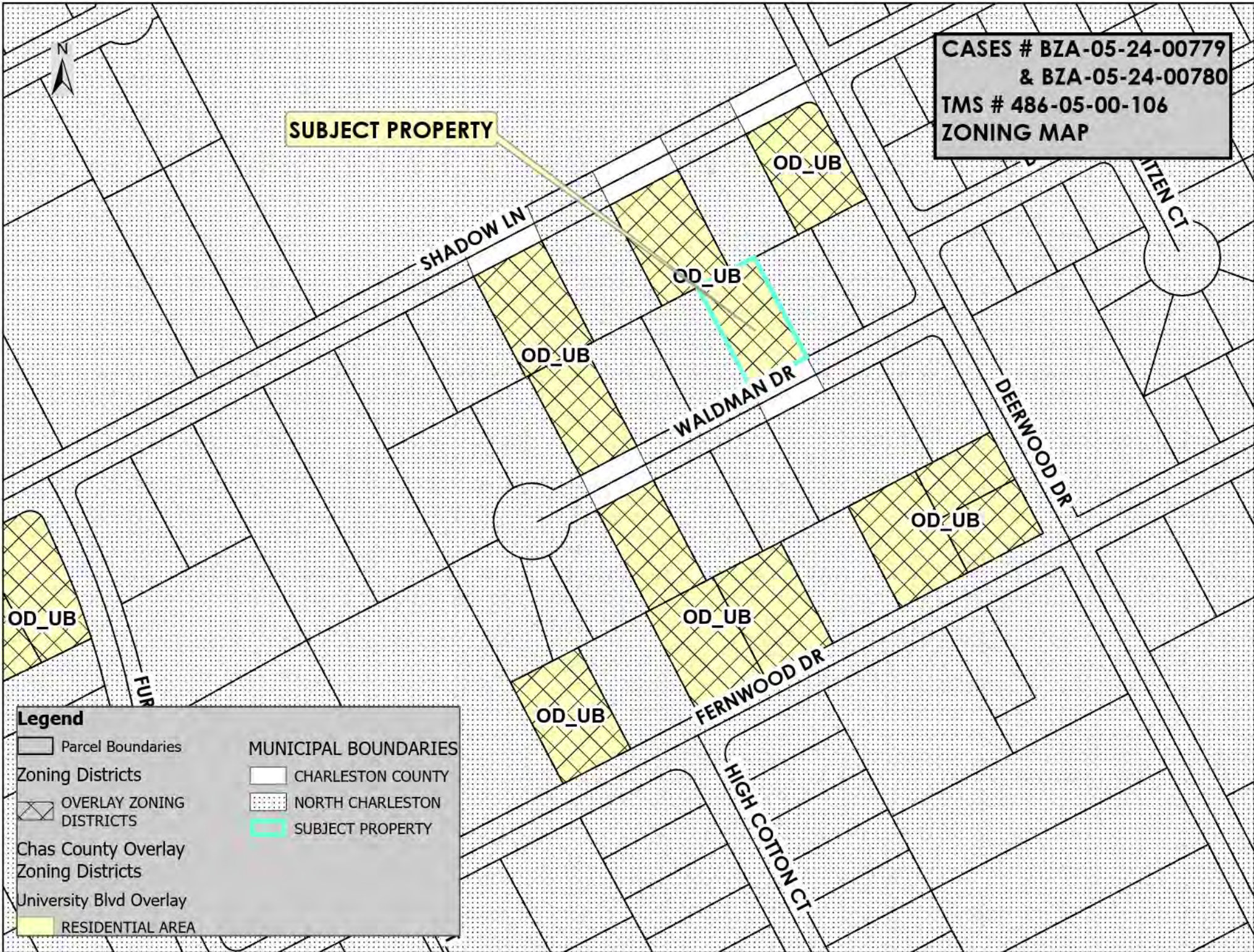
1. All Grand Trees and any other Trees required to remain on a site must be protected during construction and Development of a Parcel. Tree protection must be shown on all Development plans prior to site plan approval. A site inspection of the Tree barricades must be scheduled by the Applicant with the Zoning and Planning Department for approval prior to the issuance of permits or the start of Development activities.
 2. Prior to issuance of a Zoning Permit, a pre-construction planning conference is required for on-site Tree preservation with the Zoning and Planning Director or staff representative, the Applicant(s), and any appropriate parties for determining if there is need for additional Tree protection techniques and for designating placement of Tree barricades, construction employee parking, temporary construction office, and dumpsters.
- B. Prior to the start of Land Development activities, protective Tree barricades shall be placed around all Required Trees in or near Development areas. The barricades shall be constructed of wood, metal, or plastic fencing or other materials approved by the Zoning and Planning Director; and include a top rail. Tree barricades shall be placed beneath the canopy Drip Line or one foot times the DBH of the Tree as a radius from the trunk, whichever is greater. Other protective devices or construction techniques may be used as approved by the Zoning and Planning Director. Three inches of mulch shall be installed and maintained within all Tree barricade areas. The mulch shall remain in place throughout Development activities. The area within the Tree barricade shall remain free of all Building materials, dirt, fill, and other construction debris, vehicles, and Development activities. All Required Trees are also subject to the requirements of Sec. 9.4.6, *Landscape Materials Standards*, and Article 11.3, *Enforcement Responsibility and Complaints*.
- C. In no case shall any paving, filling, grading, Building, or construction footing occur or be placed within three times the DBH in inches from the trunk of the Tree, unless otherwise approved by the Board of Zoning Appeals.
- D. Limited Clearing and Grubbing may be authorized by the Zoning and Planning Director prior to the installation of Tree barricades on sites that exhibit unusually heavy undergrowth and where access to the interior of the site and its Protected Trees is impractical. Limited Clearing shall be for the express purpose of accessing the property and Protected Trees to erect the Required Tree barricades and silt fencing. Such limited Clearing shall be done with hand tools, push or walk -behind equipment, or lightweight bush-hog type equipment designed for brush and undergrowth Clearing and which is not capable of removing vegetation greater than three inches in diameter. Under no circumstances may metal-tracked bulldozers, loaders, or similar rider/operator equipment be allowed on site until the Tree barricades are erected and a Zoning Permit is issued.
- E. Limited encroachments into the area located within Tree barricades may be allowed by the Zoning and Planning Director provided that encroachments do not constitute more than 25 percent of the protected area beneath a Tree and do not occur in the area located within three times the DBH in inches from the trunk of the Tree unless otherwise approved by the BZA. Any paving, Grading, trenching, or filling of the protected area must be pre-approved by the Zoning and Planning Director or the Board of Zoning Appeals, as required by this Ordinance, and may require specific construction techniques to preserve the health of the Tree. When grading and construction within the protected area of a Tree has been approved, all damaged roots shall be severed clean.
- F. Prior to issuance of a Zoning Permit for uses other than Single-Family Detached Residential, the following numbers of Trees with a DBH of eight inches or greater shall be preserved and protected pursuant to the requirements of this Ordinance. Preservation and protection of native Trees is to be prioritized. Properties within the Industrial (IN) District may elect to mitigate the removal of these Protected Trees, as described in Sec. 9.2.6.D, with the exception that all Grand trees and any required Buffer tree measuring eight inches (8") or greater shall be preserved. On properties in the IN District that elect to mitigate the removal of these Protected Trees and where the planting of canopy trees is required within Buffers and other landscaping, screening, and buffer areas, canopy trees shall be a minimum of four inch (4") caliper.
1. 20 Trees per acre; or
 2. Any number of Trees with a combined DBH of at least 160 inches per acre.
- G. When Lots lack a sufficient number of Trees to meet the requirement for DBH/number of Trees per acre, this requirement shall be fulfilled by existing Trees and must equal 40 inches per acre combined DBH. On Lots with less than 40 inches per acre combined DBH, additional Trees shall be planted on the Lot equaling or exceeding 40 inches per acre combined DBH. Planting schedules shall be approved by the Zoning and Planning Director. Properties within the Industrial (IN) District may elect to mitigate the removal of Protected Trees, as described in Sec. 9.2.6.D, with the exception that all Grand Trees and any required Buffer tree measuring eight inches (8") or greater shall be preserved. On properties in the IN District that elect to mitigate the removal of Protected Trees and where the planting of canopy trees is required within Buffers and other landscaping, screening and buffer areas, canopy trees shall be a minimum of four inch (4") caliper.

Map 5.7



CASES # BZA-05-24-00779
& BZA-05-24-00780
TMS # 486-05-00-106
ZONING MAP

SUBJECT PROPERTY



Legend

Parcel Boundaries	MUNICIPAL BOUNDARIES
Zoning Districts	CHARLESTON COUNTY
OVERLAY ZONING DISTRICTS	NORTH CHARLESTON
Chas County Overlay Zoning Districts	SUBJECT PROPERTY
University Blvd Overlay	
RESIDENTIAL AREA	

CASES # BZA-05-24-00779
& BZA-05-24-00780
TMS # 486-05-00-106
AERIAL VIEW

SHADOW LN

SUBJECT PROPERTY

DEERWOOD DR

DONNER AV

WALDMAN DR



CASES # BZA-05-24-00779
& BZA-05-24-00780
TMS # 486-05-00-106
AERIAL VIEW

SHADOW LN

SUBJECT PROPERTY

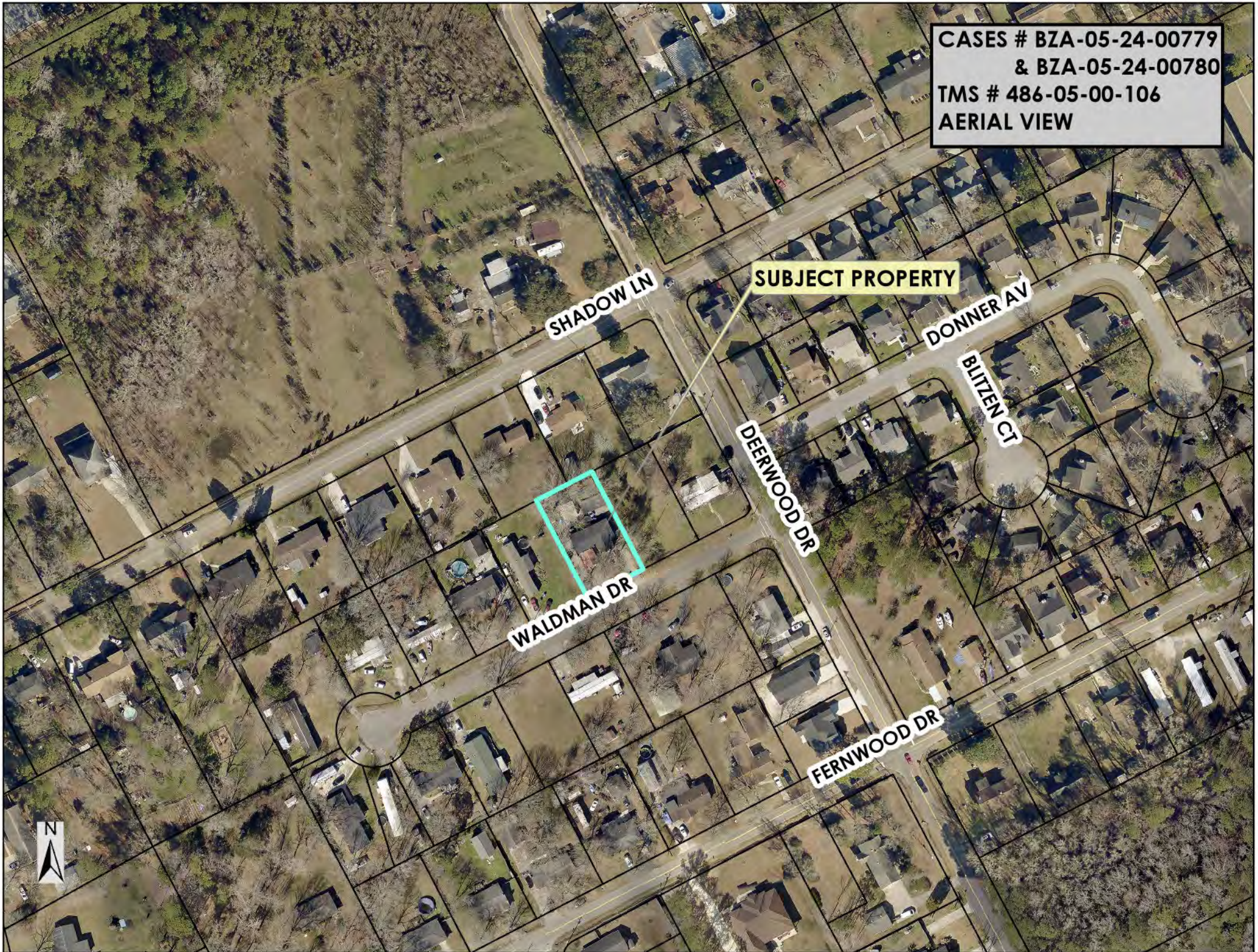
DONNER AV

BLITZEN CT

DERWOOD DR

WALDMAN DR

FERNWOOD DR



Case # BZA-05-24-00779

BZA Meeting of July 1, 2024

Subject Property: 2818 Waldman Drive – North Area

Proposal: Variance request for existing structures to encroach more than 25% of the protected root zone area & encroach within a restricted area 3 x's the DBH (Critical Root Zone) of 3 Grand Willow Oak Trees.



25" DBH Willow Oak Tree

Encroach more than 25% & Encroach within 3 x DBH –
Zoning Variance required from BZA



25" DBH Willow Oak Tree

Encroach more than 25% & Encroach within 3 x DBH –
Zoning Variance required from BZA



26" DBH Willow Oak Tree

Encroach more than 25% & Encroach within 3 x DBH –
Zoning Variance required from BZA



Case # BZA-05-24-00780

BZA Meeting of July 1, 2024

Subject Property: 2818 Waldman Drive – North Area

Proposal: Variance request to reduce the required 5' interior side setback by 4' to 1' for an existing unpermitted covered porch.



Subject Property

Unpermitted Covered Porch



Staff Review:

The applicant and the property owner, Leticia De La Cruz Gonzalez is requesting two (2) variances for existing structures at 2818 Waldman Drive (TMS # 486-05-00-106) in the North Area of Charleston County. The subject property and property to the northwest are located in the University Boulevard Overlay (Residential Area) Zoning District. Surrounding properties to the northeast, east, south, and west are located in the City of North Charleston's jurisdiction.

The applicant is requesting a total of two (2) variances:

1. Case # BZA-05-24-00779: Variance request for existing structures to encroach more than twenty-five percent (25%) of the protected root zone area and to encroach within a restricted area three times the DBH (Critical Root Zone) of three (3) Grand Willow Oak Trees.

Tree # 1 - 25" DBH – 34%

Tree # 2 - 25" DBH – 34%

Tree # 3 - 26" DBH – 26%

2. Case # BZA-05-24-00780: Variance request to reduce the required 5' interior side setback by 4' to 1' for an existing unpermitted covered porch.

The 0.286-acre subject property contains a single-family residence, carport, 2 sheds, a one-story wood framed accessory building (under construction) with a covered porch. The applicant's letter of intent explains, "My dad built the storage for my mom because it was used for her personal use like she was sick, she had kidney problems and we use it for her medication then she got sick with Covid-19."

Applicable ZLDR requirement Case # BZA-05-24-00779:

The Charleston County Zoning and Land Development Regulations Ordinance (ZLDR), Chapter 9 Development Standards, Article 9.2 Tree Protection and Preservation, Sec. 9.2.4.C. Required Tree Protection states, "In no case shall any paving, filling, grading, Building, or construction footing occur or be placed within three times the DBH in inches from the trunk of the Tree, unless otherwise approved by the Board of Zoning Appeals."

Sec. 9.2.4.E. Required Tree Protection states, "Limited encroachments into the area located within Tree barricades may be allowed by the Zoning and Planning Director provided that encroachments do not constitute more than 25 percent of the protected area beneath a Tree and do not occur in the area located within three times the DBH in inches from the trunk of the Tree unless otherwise approved by the BZA. Any paving, Grading, trenching, or filling of the protected area must be pre-approved by the Zoning and Planning Director or the Board of Zoning Appeals, as required by this Ordinance, and may require specific construction techniques to preserve the health of the Tree.

When grading and construction within the protected area of a Tree has been approved, all damaged roots shall be severed clean."

Applicable ZLDR Chapter 12 Definitions, Article 12.1 Terms and Uses Defined:

Arborist, Certified A Person certified by the International Society of Arboriculture.

Diameter Breast Height (DBH) The total diameter, in inches, of a Tree trunk or trunks measured at a point four and one-half feet above existing Grade (at the base of the Tree). In measuring DBH, the circumference of the Tree shall be measured with a standard diameter tape, and the circumference shall be divided by 3.14.

Grand Tree Any Tree with a diameter breast height of 24 inches or greater, with the exception of Pine Tree and Sweet Gum Tree (*Liquidambar styraciflua*) species.

Applicable ZLDR requirement Case # BZA-05-24-00780:

The Charleston County Zoning and Land Development Regulations Ordinance (ZLDR), Chapter 5 Overlay and Special Purpose Zoning Districts, Article 5.7 University Boulevard Overlay Zoning District, Sec. 5.7.14 Residential Uses, A.4. Permitted Uses, states, "All Development in the R-4 Zoning District shall meet the Density/Intensity and Dimensional Standards of Article 4.12, R-4 Low Density Residential District, of this Ordinance."

Chapter 4 Base Zoning Districts, Article 4.12 R-4, Low Density Residential District, Sec. 4.12.3 Density/Intensity and Dimensional Standards requires a 5' interior side setback.

Staff conducted a site visit on June 12, 2024. Please review the attachments for further information regarding this request.

Planning Director Review and Report regarding Approval Criteria of §3.10.6:

§3.10.6(1): *There are extraordinary and exceptional conditions pertaining to the particular piece of property;*

Response: There may be extraordinary and exceptional conditions pertaining to the 0.286-acre subject property because the property contains six (6) Grand Trees. Therefore, the request may meet this criterion.

§3.10.6(2): *These conditions do not generally apply to other property in the vicinity;*

Response: These conditions may not generally apply to other properties in the vicinity. Therefore, the request may meet this criterion.

§3.10.6(3): *Because of these conditions, the application of this Ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property;*

Response: The application of this Ordinance, Chapter 9 Development Standards,

Article 9.2 Tree Protection and Preservation, Sec. 9.2.4. (C. and E.) Required Tree Protection and Chapter 4 Base Zoning Districts, Article 4.12 R-4, Low Density Residential District, Sec. 4.12.3 Density/Intensity and Dimensional Standards to 2818 Waldman Drive would require the property owner to demolish or relocate the existing structures. Therefore, the request may meet this criterion.

§3.10.6(4): *The authorization of a variance will not be of substantial detriment to adjacent property or to the public good, and the character of the zoning district will not be harmed by the granting of the variance;*

Response: Authorization of this request may not be of substantial detriment to adjacent properties or to the public good, and the character of the University Boulevard Overlay (Residential Area) Zoning District may not be harmed if this variance is granted. Therefore, the request may meet this criterion.

§3.10.6(5): *The Board of Zoning Appeals shall not grant a variance the effect of which would be to allow the establishment of a use not otherwise permitted in a zoning district, to extend physically a nonconforming use of land, or to change the zoning district boundaries shown on the official zoning map. The fact that property may be utilized more profitably, should a variance be granted, may not be considered grounds for a variance;*

Response: The variance does not allow a use that is not permitted in this zoning district, nor does it extend physically a nonconforming use of land or change the zoning district boundaries. Therefore, the request meets this criterion.

§3.10.6(6): *The need for the variance is not the result of the applicant's own actions;*

Response: The need for the variance may be **the result of the applicant's** own actions. The **applicant's** letter of intent states "I think yes, my dad built the shed for the use of my mom that she was very sick, we never knew that **we need to get permits to do it.**" Therefore, the request may meet this criterion.

§3.10.6(7): *Granting of the variance does not substantially conflict with the Comprehensive Plan or the purposes of the Ordinance;*

Response: Granting of the variance may not substantially conflict with the Comprehensive Plan or the purposes of the Ordinance if the Board finds that the strict application of the provisions of the Ordinance results in an unnecessary hardship. In addition, **the applicant's** letter of intent states, "**We don't want to destroy it my dad built it with a lot of effort.**" Therefore, the request may meet this criterion.

Board of Zoning Appeals' Action:

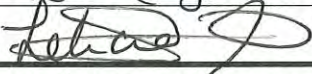
According to Article 3.10 Zoning Variances, Section §3.10.6 Approval Criteria of the *Charleston County Zoning and Land Development Regulations Ordinance (ZLDR)*, (adopted July 18, 2006), The Board of Zoning Appeals has the authority to hear and decide appeals for a Zoning Variance when strict application of the provisions of this Ordinance would result in unnecessary hardship (§3.10.6A). A Zoning Variance may be granted in an individual case of unnecessary hardship if the Board of Zoning Appeals makes and explains in writing their findings (§3.10.6B Approval Criteria).

In granting a variance, the Board of Zoning Appeals may attach to it such conditions regarding the location, character, or other features of the proposed building or structure as the Board may consider advisable to protect established property values in the surrounding area or to promote the public health, safety, or general welfare (§3.10.6C).

The Board of Zoning Appeals may approve, approve with conditions or deny Case BZA-05-24-00779 and -00780 [Two (2) Variance requests for existing structures at 2818 Waldman Drive (TMS # 486-05-00-106) in the North Area of Charleston County] based on the BZA's "Findings of Fact" unless additional information is deemed necessary to make an informed decision. In the event the BZA decides to approve the application, Staff recommends the following conditions:

1. If any of the Grand Trees requested for encroachment dies within 3 years of the completion of the project, the applicant shall mitigate the tree by either (a) submitting a mitigation plan for review and approval indicating the installation of canopy trees no smaller than two and one-half (2.5) inches in caliper equaling inch per inch replacement, (b) by depositing funds into the Charleston County Tree Fund as described in Sec. 9.2.6 of the *ZLDR*, or (c) a combination of both (a) and (b). The allotted mitigation shall be in place prior to its removal.
2. The applicant shall retain a Certified Arborist to monitor and treat the Grand Trees onsite. The applicant shall provide a copy of the Tree Preservation Plan to Zoning Staff for review and approval.

ZONING VARIANCE APPLICATION
Charleston County Board of Zoning Appeals (BZA)

Property Information			
Subject Property Address: 2818 Waldman Dr. N. Charleston SC 29406			
Tax Map Number(s): 486-05-00-106			
Current Use of Property: Residence			
Proposed Use of Property: Residence			
Zoning Variance Description: <u>Grand tree encroachment, additional structures,</u> Setback variances.			
Applicant Information (Required)			
Applicant Name (please print): Leticia De la Cruz Gonzalez			
Name of Company (if applicable):			
Mailing Address: (lettyg97@gmail.com) 2818 Waldman Dr.			
City: North Charleston	State: SC	Zip Code: 29406	
Email Address: lettyg97@gmail.com		Phone #: (843) 879-1460	
Applicant Signature: 		Date: 3/18/24	
Representative Information (Complete only if applicable. Attorney, Builder, Engineer, Surveyor etc.)			
Print Representative Name and Name of Company:			
Mailing Address:			
City:	State:	Zip Code:	
Email Address:		Phone #:	
Designation of Agent (Complete only if the Applicant listed above is not the Property Owner.)			
I hereby appoint the person named as Applicant and/or Representative as my (our) agent to represent me (us) in this application.			
Property Owner(s) Name(s) (please print):			
Name of Company (if applicable, LLC etc.):			
Property Owner(s) Mailing Address:			
City:	State:	Zip Code:	Phone #:
Property Owner(s) Email Address:			
Property Owner(s) Signature:			Date:
FOR OFFICE USE ONLY:			
Zoning District: OD-UB	Flood Zone: X (0280K)	Date Filed: 5/14/24	Fee Paid: \$900 credit card
Application #: BZA-05-24-00779	TMS #: 486 05 00 106	Staff Initials: jjw	

Description of Request

Please describe your proposal in detail. You may attach a separate sheet if necessary. Additionally, you may provide any supporting materials that are applicable to your request (photographs, letter of support, etc.)

My dad built the storage for my mom because it was used for her personal use like she was sick, she had kidney problems and we use it for her medication then she got sick with covid-19.

Applicant's response to Article 3.10 Zoning Variances, §3.10.6 Approval Criteria

Zoning Variances may be approved only if the Board of Zoning Appeals finds that the proposed use meets all 7 of the approval criteria. In evaluating your request, the members of the board will review the answers below as a part of the case record. You may attach a separate sheet if necessary.

1. Are there extraordinary and exceptional conditions pertaining to the subject property? Explain:

No I don't think there's any exceptional conditions.

2. Do these conditions generally apply to other property in the vicinity or are they unique to the subject property? Explain:

Not that I know about it.

3. Because of these extraordinary and exceptional conditions, would the application of this Ordinance to the subject property effectively prohibit or unreasonably restrict the utilization of the property? Explain:

N/A

4. Will the authorization of a variance be a substantial detriment to adjacent property or to the public good? Will the character of the zoning district be harmed if this variance is granted? Explain:

NO it won't be a detriment or adjacent for the property or to the public.

NO it won't affect the zoning district.

5. The BZA shall not grant a variance the effect of which would be to allow the establishment of a use not otherwise permitted in a zoning district, to extend physically a Nonconforming Use of land, or to change the zoning district boundaries shown on the Official Zoning Map. The fact that property may be utilized more profitably if a Zoning Variance is granted shall not be considered grounds for granting a Zoning Variance. Does the variance request meet this criterion?

Well I think it doesn't affect anything.
and I hope it does meet the criterion.

6. Is the need for the variance the result of your own actions? Explain:

I think yes, my dad built the shed for the use of my mom that she was very sick, we never knew that we need to get permits to do it.

7. Does the variance substantially conflict with the Charleston County Comprehensive Plan or the purposes of the Ordinance? Explain

Not sure about it, but I hope it does not. we don't want to destroy it my dad build it with a lot of effort.

In granting a variance, the Board of Zoning Appeals may attach to it such conditions regarding the location, character, or other features of the proposed building or structure as the Board may consider advisable to protect established property values in the surrounding area or to promote the public health, safety, or general welfare.

March 18, 2024

To it whom may concern,

I leticia de la cruz Gonzalez send this letter to explain the reason why my dad built the storage (the little house) on the back of the brick house.

My mom had diabetes and she get really sick at the point that everything make her sick.

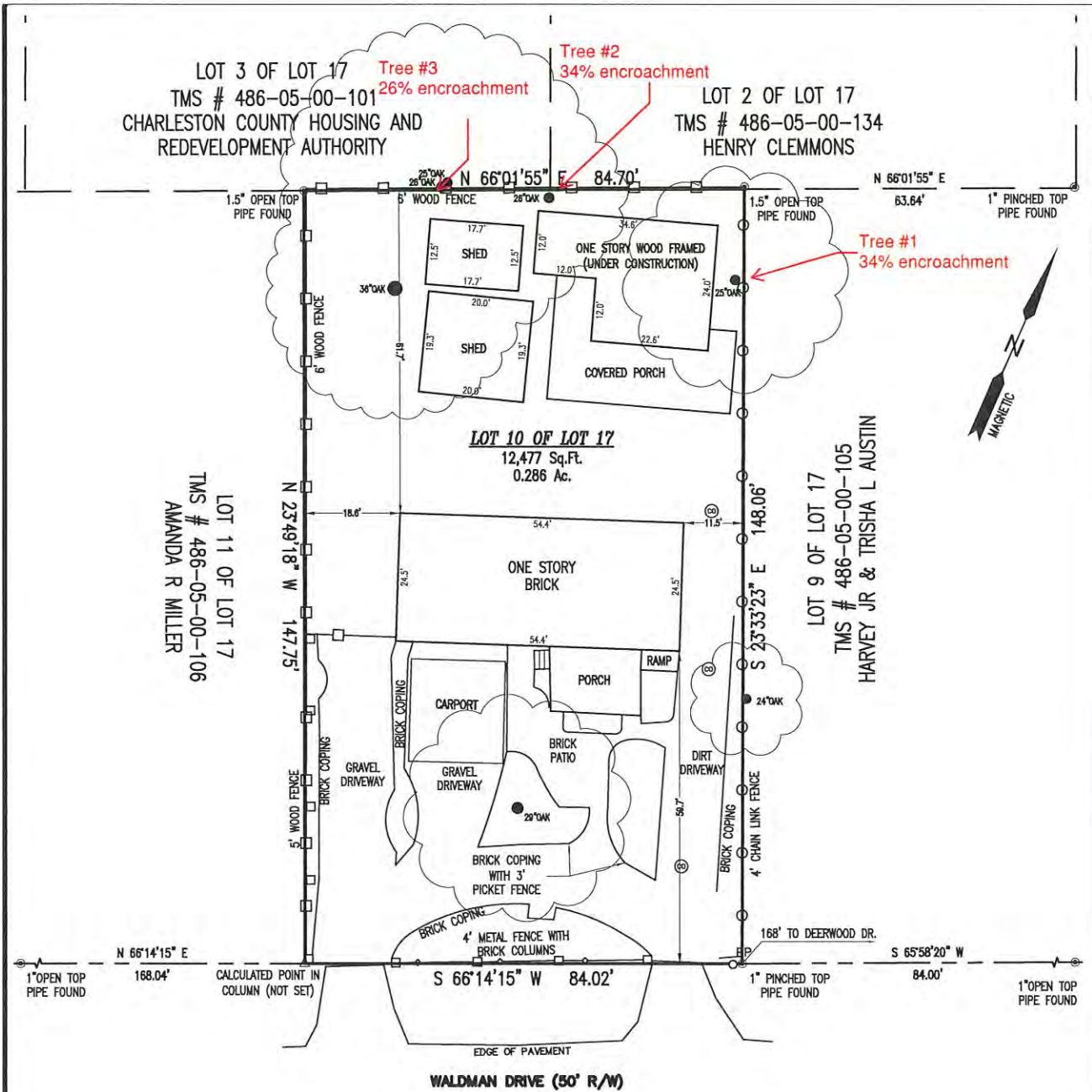
So my dad decide to make the storage to put most of my mom stuff like her medicine, wheelchair that she used, her personal use stuff and my dad groceries.

He never thought that he would need to get permits from the city of North Charleston and he is very sorry about it.

I hope ya'll understand that it was only for my mom's good. for her health, but now she passed away, we just don't want to destroy the storage, because it cost money, my dad's effort and time.

He is very sorry about and he says he would do what ever ya'll decide, but from his heart he hope ya'll permit him conserve his storage.

Thank you so much for ya'll comprehension.



NOTES & REFERENCES:

1. REFERENCE PLAT BY JOHN F. MURPHREE RECORDED IN CHARLESTON COUNTY R.O.D. IN PLAT BOOK Y AT PAGE 041.
2. THIS SURVEY DOES NOT REFLECT A TITLE SEARCH AND IS BASED ENTIRELY ON THE ABOVE REFERENCED DOCUMENT(S) AND FIELD EVIDENCE. THIS SURVEY DOES NOT GUARANTEE TITLE NOR DEPICT ANY ENCUMBRANCES NOT SHOWN ON THE REFERENCE PLAT.
3. CERTIFICATION IS TO THE PARTIES FOR WHOM THIS SURVEY WAS PREPARED AND IS NOT TRANSFERABLE TO ANY OTHER INSTITUTION OR INDIVIDUALS.

GENERAL PROPERTY SURVEY

LOT 10 OF LOT 17
 DEER PARK
 2818 WALDMAN DRIVE
 TMS # 486-05-00-106
 NORTH CHARLESTON
 CHARLESTON COUNTY, SC

PREPARED FOR
 ISRAEL DELACRUZ
 SCALE: 1" = 20' DATE: NOV. 13, 2023

ATLANTIC SURVEYING, INC.
 1723 SAVANNAH HIGHWAY
 P.O. BOX 30604
 CHARLESTON, SOUTH CAROLINA 29417
 PHONE: (843)763-6669 FAX: (843)763-7411



I HEREBY STATE TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF, THE SURVEY SHOWN HEREON WAS MADE IN ACCORDANCE WITH THE REQUIREMENTS OF THE MINIMUM STANDARDS MANUAL FOR THE PRACTICE OF LAND SURVEYING IN THE STATE OF SOUTH CAROLINA, AND MEETS OR EXCEEDS THE REQUIREMENTS FOR A CLASS 'A' SURVEY AS SPECIFIED THEREIN; ALSO THERE ARE NO VISIBLE ENCROACHMENTS OR PROJECTIONS OTHER THAN SHOWN.

